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8 Attorney for Defendant Josef F. Boehm

9 IN THE UNITED STATES DISTRICT COURT

10 DISTRICT OF ALASKA

11  
12 Sally C. Purser, )  
13 Plaintiff, ) DEFENDANT JOSEF BOEHM'S SECOND  
14 v. ) MOTION FOR A CONFERENCE REGARDING  
Josef F. Boehm, Allen K. )  
15 Bolling, and Bambi Tyree, ) SCHEDULING AND PLANNING  
16 Defendants. )  
17 )  
18 ) CASE NO.: A05-0085 (JKS)  
19 )

19 **I. INTRODUCTION**

20 Mr. Boehm moves this Court for an Order for a Scheduling and  
21 Planning Conference. As this Court is aware, counsel for both Mr.  
22 Boehm and Ms. Purser have been diligent in their motion writing and  
23 discovery since this Court's November 9, 2006 Order extending  
24 discovery.

25 As presented below, the landscape of this case has  
26 dramatically changed. Facts have been revealed dramatically  
27 shifting Purser's liability and damage claims. A number of new  
28 witnesses have been identified. Expert evaluations are being sought

1 and numerous depositions are needed to properly assess the strength  
2 of Plaintiff's allegations and the corresponding defenses presented  
3 thus far.

4 Mr. Boehm respectfully moves this Court as follows:

5 **II. A REQUEST FOR DEADLINE EXTENSIONS WAS ANTICIPATED BY**  
6 **PLAINTIFF'S COUNSEL IN THE SCHEDULING AND PLANNING CONFERENCE**  
7 **REPORT AS WELL AS THE SCHEDULING AND PLANNING ORDER**

8 On October 13, 2005, in accordance with F.R.Civ.P. 26(f), a  
9 meeting was held and attended by Mr. Darryl Jones, counsel for  
10 plaintiff and Mr. Kevin Fitzgerald, former counsel for defendant  
11 Boehm, wherein a Joint Scheduling and Planning Report was agreed upon  
12 and drafted. The Scheduling and Planning Conference Report, signed by  
13 attorney Darryl Jones, contains several passages regarding the  
14 anticipated re-scheduling of discovery deadlines as well as an  
15 acknowledgment of contested issues of liability and damages.

16 Boehm brings his motion for a scheduling and planning conference  
17 in good faith and pursuant to the language set forth in the Joint  
18 Scheduling and Planning Conference Report and Scheduling and Planning  
19 Order. On November 10, 2005 the Scheduling and Planning Order was  
20 issued by this Honorable Court. *The Scheduling and Planning Order,*  
21 *Further Pre-Trial Proceedings Section, subsection (2), states in*  
22 *pertinent part:*

23 " Status, discovery, settlement, or other pre-  
24 trial conferences will be scheduled at the  
25 request of a party or at the discretion of the  
26 court."

27 Additionally, the Order sets forth language in anticipation that  
28 discovery deadline extensions might be warranted. *The Scheduling and*  
*Planning Order, Discovery Section, subsection (7) reads:*

1 "If expert witness or other fact discovery is not  
2 completed by the dates specified, counsel may  
3 stipulate to a continuance of no more than two  
4 months for completion of the same...A discovery  
5 conference must be requested if more time is  
6 required to complete such discovery.."

7 **III. GOOD CAUSE IS SHOWN**

8 **A. Facts To Date Have Changed The Landscape Of The Action**  
9 **And Need For Additional Discovery**

10 The facts and landscape of this case have dramatically changed  
11 as a result of the Kenner Law Firm becoming counsel of record. Prior  
12 to counsel's involvement some 15 months past without any discovery  
13 activity by any of the parties to the action.

14 As a result of this apparent inactivity, plaintiff filed for  
15 summary judgment claiming to be the victim of a conspiracy in which  
16 she was allegedly forced to have sex in exchange for "crack" cocaine.  
17 Summary Judgment was denied, forcing Plaintiff to dismiss Bambi Tyree  
18 in search of an affidavit to support her version of events.

19 Boehm's counsel have since made two trips to Anchorage, Alaska  
20 and have conducted the depositions of Plaintiff and witness Erin Axt.  
21 Counsel has interviewed and submitted the affidavits of two additional  
22 witnesses (Vince Blomfield and Tina Arndt) which contradict the  
23 allegations set forth by Plaintiff. Additionally, Boehm has shown a  
24 multitude of contradictions within Purser's own recorded statements,  
25 deposition testimony and statements made to her own expert Dr. Rose.

26 Boehm has also presented the recorded testimony of Miranda  
27 Ditullio and deposition testimony of Erin Axt severely damaging  
28 Purser's version of events and claimed damages.

Boehm's counsel have been very active and have propounded  
multiple sets of written discovery and had filed two motions to compel

1 discovery in order to timely obtain crucial and relevant discoverable  
2 information.

3 Boehm's counsel have located and retained two experts and have  
4 been mired in extensive motion practice opposing numerous motions  
5 filed by Plaintiff as well as filed numerous motions on Boehm's  
6 behalf.

7 The parties are not sitting idly awaiting trial. Boehm approaches  
8 this Court in good faith.

9 **B. New facts have Been revealed prompting A need For**  
10 **Additional Discovery Time**

11 Intensive discovery to date has revealed a quite different  
12 scenario than the allegations contained within Plaintiff's complaint:

13 1. All of Purser's allegations regarding Boehm are disputed via  
14 third party affidavits, deposition testimony, interviews and written  
15 discovery;

16 2. Purser has a prolonged history of drug abuse pre-dating her  
17 alleged relationship with Boehm. Purser knew and obtained her drugs  
18 from multiple sources including her mother Kathleen Purser and Bambi  
19 Tyree. Purser admits to the existence of criminal drug convictions and  
20 multiple instances of theft. Purser has exchanged sex for drugs with  
21 numerous individuals and maintained relationships within a network of  
22 drug dealers and drug addicts;

23 3. Recently dismissed defendant Bambi Tyree with the assistance  
24 of Sally Purser and others with whom she was involved engaged in a  
25 plot to keep Mr. Boehm high on "crack" cocaine, incoherent and in state  
26 of severe psychosis to enable them to steal his property, cash, cars  
27 and too seek to gain control over his financial resources;

28 4. Boehm never engaged in any sexual activity or conduct with  
Sally Purser, never knowingly provided her with drugs, and was not

1 responsible for her drug addiction and behaviors including but not  
2 limited to trading sex for drugs, theft of money and property, drug  
3 possession and sales, and drug convictions.

4 **B. Discovery Has Revealed Numerous Individuals Responsible**  
5 **For The Alleged Damages To Purser**

6 Discovery has revealed a multitude of individuals for whom Purser  
7 acquired drugs from, had underage sex with and contributed to her  
8 claimed damages including but not limited to "crack" cocaine addiction.  
9 In addition, the evidence has revealed a multitude of contradictions  
10 and half truths with respect to Purser's liability and damage claims.

11 As a result, Boehm seeks to engage in additional discovery and  
12 seek leave of this Honorable Court to file Cross Actions against these  
13 individuals. The evidence to date has shown and warrants the  
14 aforementioned filing as follows:

15 1. Purser obtained "crack" cocaine and other drugs from numerous  
16 sources, including but not limited to Bambi Tyree, Kathleen Purser,  
17 Al Bolling, Leslie Williams, Jay Whaley, Carl Bucher, Kathleen  
18 Purser's various drug connections and numerous other individuals  
19 before, during and after the time period encompassing the alleged  
20 actions of Boehm.

21 2. Purser smoked "crack" cocaine with her mother Kathleen Purser,  
22 Bambi Tyree, Erin Axt, Carl Bucher, Al Bolling, Jay Whaley and  
23 numerous individuals before, during and after the time period  
24 encompassing the alleged actions of Boehm.

25 3. Purser traded sex for "crack" cocaine with numerous  
26 individuals, including older men and drug dealers. In addition,  
27 Purser's mother sold her to older men and drug dealers in exchange for  
28 "crack" cocaine.

1 4. Purser, 16 years old, lived with Jay Whaley, an older man,  
2 convicted drug dealer and escort service operator who paid for her  
3 living expenses and provided her an unlimited source of "crack" cocaine  
4 in exchange for sex during the time period encompassing her claims  
5 against Boehm.

6 5. Purser identifies a conspiracy by and between Tyree, Bolling  
7 and Williams to keep Boehm high on "crack" cocaine and steal from him.  
8 Purser further stated that Tyree tried to harm Boehm by tainting his  
9 food and drugs in an effort to keep him incoherent and within her  
10 control. Purser referred to Tyree as the "ring leader".

11 6. Bambi Tyree with the assistance of Sally Purser and others  
12 with whom she was involved engaged in a plot to keep Mr. Boehm high  
13 on "crack" cocaine to enable them to steal his property, cash, cars and  
14 too seek to gain control over his financial resources.

15 Boehm wishes to depose the aforementioned individuals in order  
16 to further substantiate the information obtained through discovery to  
17 date. The allegations are relevant to the instant action and should  
18 be allowed to be developed through further discovery and cross  
19 actions.

20 **C. Witness And Expert Depositions Are Needed To Properly**  
21 **Defend The Action**

22 There are four additional lawsuits that have been filed naming  
23 Boehm as a defendant as a result of the plea agreement. The additional  
24 litigation will result in numerous depositions for which Boehm plans  
25 on acquiring additional relevant information in which to present to  
26 defeat Purser's liability and damage claims.

27 Boehm will be unduly prejudiced if not allowed to present this  
28 discoverable information at the time of trial. To date, Boehm has  
introduced evidence by way of affidavit and recorded interviews which

1 have raise significant doubt and created multiple issues of material  
 2 fact with regard to Purser's claims and credibility. Boehm seeks  
 3 additional time to conduct the depositions of:

4 **Bambi Tyree**  
 5 **Kathleen Purser**  
 6 **Jay Whaley**  
 7 **Al Bolling**  
 8 **Leslie Williams**  
 9 **Carl Bucher**

10 **Jerald "Doe"** (Purser's current boyfriend and father of her  
 11 children)

12 **Paxton Purser**

13 **Jay Harrison** (Purser's uncle, for whom she has provided  
 14 different stories regarding is alleged  
 15 sexual abuse of her)

16 **Roberta Harrison**

17 In addition it will be necessary to conduct the depositions of  
 18 Plaintiff's experts and individuals she identified to have knowledge  
 19 of the causation of her drug addiction:

20 **Dr. Michael Rose** (psychologist)  
 21 **Francis Gallela** (Economist)  
 22 **Victoria Nelson**  
 23 **Troya Glazer**  
 24 **Keith Glazer**  
 25 **Peggy Blais**  
 26 **Ann Stockman**

#### 27 **D. Plaintiff Is Not Prejudiced By The Needed Discovery**

28 Plaintiff filed her action in April, 2005. No discovery was  
 conducted by either party until the substitution of the Kenner Law  
 Firm into this action some 14 months later.

A \$1.2 million dollar trust was set up in accordance with Boehm's  
 plea agreement. As such, Plaintiff has plenty of funds available for  
 education and medical purposes for her claimed damages while awaiting  
 a trial in the instant matter. A trial date has yet to be set by this  
 Honorable Court.

In addition, discovery in the additional actions will likely lead  
 to relevant information for the purpose of this action. Boehm intends

